

REMARKS

Applicant respectfully requests reconsideration of the present application in view of the foregoing amendments and in view of the reasons that follow.

Claims 46, 58 and 59 are currently being amended. Claims 19-30 and 46-59 remain pending. Specifically, claims 46 and 58 have been amended to recite methods for reducing and or preventing inflammation in a mammalian patient, whereas claim 59 has been amended to recite methods for reducing inflammation in a mammal patient with an inflammatory disorder. In addition, recitation of specific diseases were deleted from the claims. As acknowledged during the interview (noted below), the amended claim language better presents the claimed invention and, in fact, the amendments do not narrow the claimed subject matter, but rather define the invention independent of any specific disease condition.

The undersigned wishes to thank the examiner for the courtesy extended to the undersigned, Gerald Swiss and Bill Chan in the interview of 10 January 2006. The interview summary prepared by the examiner accurately reflects the substance of the interview.

Obviousness-type double patenting

Claims 19-30, 58 and 59 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 16-28 of U.S. Application Serial No. 09/866,569. Applicant files, herewith, a Terminal Disclaimer compliant with 37 C.F.R. § 3.73(b), which presumably overcomes the rejection. Withdrawal of the double-patenting rejection is therefore requested.

35 U.S.C. § 112, second paragraph

The Examiner rejects claim 59 under 35 U.S.C. § 112, second paragraph, as being indefinite because “the purpose set out in the preamble of the claim, and conclusion step of the active steps do not match.” Claim 59 is amended to recite “method for reducing inflammation in a mammalian patient” in the preamble of the claim and to recite “reducing the level of inflammation in the patient” in the conclusion of the claim. Applicant submit that the claim as

amended particularly points out and distinctly claims the subject matter which Applicant regards as the invention. Accordingly, Applicant respectfully requests the Examiner to withdraw the rejection.

35 U.S.C. § 112, first paragraph

The Examiner rejects claims 58 and 59 under 35 U.S.C. § 112, first paragraph, as failing to comply with the written description requirement for the limitation “congestive heart failure.” Claims 58 and 59 are amended to remove reference to congestive heart failure, thereby obviating the rejection.

The Examiner rejects claims 46-57 under 35 U.S.C. § 112, first paragraph for lack of enablement. Claim 46 is amended to recite a “method for reducing and/or preventing an inflammatory component of a disease in a mammalian patient,” rather than reciting the treatment and/or prevention of an explicit list of inflammatory disorders. This amendment obviates the rejection under 35 U.S.C. § 112, first paragraph, and, accordingly, this rejection will not be addressed herein. Suffice it to note that this amendment was entered solely to expedite what Applicant believes to be allowable subject matter and Applicant does not acquiesce in the rejection above. Rather, Applicant reserves the right to file a continuation application directed to the subject matter of claims 46-57, as originally presented.

Applicant believes that the present application is now in condition for allowance. Favorable reconsideration of the application as amended is respectfully requested.

The Examiner is invited to contact the undersigned by telephone if it is felt that a telephone interview would advance the prosecution of the present application.

The Commissioner is hereby authorized to charge any additional fees which may be required regarding this application under 37 C.F.R. §§ 1.16-1.17, or credit any overpayment, to Deposit Account No. 50-0872. Should no proper payment be enclosed herewith, as by a check

being in the wrong amount, unsigned, post-dated, otherwise improper or informal or even entirely missing, the Commissioner is authorized to charge the unpaid amount to Deposit Account No. 50-0872. If any extensions of time are needed for timely acceptance of papers submitted herewith, Applicant hereby petitions for such extension under 37 C.F.R. §1.136 and authorizes payment of any such extensions fees to Deposit Account No. 50-0872.

Respectfully submitted,

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